

**Introduced by Senator Hueso**February 21, 2014

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An act to amend Sections 42356, 42356.1, 42356.2, 42357, and 42357.5 of the Public Resources Code, relating to recycling.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1383, as introduced, Hueso. Recycling: plastic products: labeling.

Existing law prohibits the sale of a plastic product labeled as "compostable," "home compostable," or "marine degradable" unless it meets a certain specification, certification, or standard and prohibits the sale of a plastic product that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified. The term "plastic product" is defined for purposes of these prohibitions.

This bill would permit the sale of agricultural mulch film, as defined, that is labeled as biodegradable, or labeled as otherwise specified, if the product biodegrades in soil after being used and meets other specified conditions. The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 42356 of the Public Resources Code is
- 2     amended to read:
- 3     42356. For purposes of this chapter, the following definitions
- 4     apply:
- 5     (a) "Agricultural mulch film" means film plastic that is used
- 6     as a technical tool in commercial farming applications.
- 7     ~~(a)~~

1 (b) “ASTM” means the American Society for Testing and  
2 Materials.

3 ~~(b)~~

4 (c) (1) “ASTM standard specification” means one of the  
5 following:

6 (A) The ASTM Standard Specification for Compostable Plastics  
7 D6400, as published in September 2004, except as provided in  
8 subdivision (c) of Section 42356.1.

9 (B) The ASTM Standard Specification for Non-Floating  
10 Biodegradable Plastics in the Marine Environment D7081, as  
11 published in August 2005, except as provided in subdivision (c)  
12 of Section 42356.1.

13 (C) The ASTM Standard Specification for Biodegradable  
14 Plastics Used as Coatings on Paper and Other Compostable  
15 Substrates D6868, as published in August 2003, except as specified  
16 in subdivision (c) of Section 42356.1.

17 (2) “ASTM standard specification” does not include an ASTM  
18 Standard Guide, a Standard Practice, or a Standard Test Method.

19 ~~(e)~~

20 (d) “Department” means the Department of Resources Recycling  
21 and Recovery.

22 ~~(d)~~

23 (e) “Manufacturer” means a person, firm, association,  
24 partnership, or corporation that produces a plastic product.

25 ~~(e)~~

26 (f) “OK home compost” means conformity with the existing  
27 Vincotte certification “OK Compost HOME certification” which,  
28 as of January 1, 2011, uses European Norm 13432 standard adapted  
29 to low-temperature composting in accordance with the Vincotte  
30 program “OK 2-Home Compostability of Products.”

31 (g) *“OK soil biodegradable soil” means a product that conforms*  
32 *with the existing Vincotte certification OK biodegradable soil*  
33 *certification, as in effect on January 1, 2011.*

34 ~~(f)~~

35 (h) “Plastic product” means a product made of plastic, whether  
36 alone or in combination with other material, including, but not  
37 limited to, paperboard. A plastic product includes, but is not limited  
38 to, any of the following:

39 (1) (A) A consumer product.

1 (B) For purposes of this paragraph, “consumer product” means  
2 a product or part of a product that is used, bought, or leased for  
3 use by a person for any purpose.

4 (2) A package or a packaging component.

5 (3) A bag, sack, wrap, or other thin plastic sheet film product.

6 (4) A food or beverage container or a container component,  
7 including, but not limited to, a straw, lid, or utensil.

8 ~~(g)~~

9 (i) “Supplier” means a person who does one or more of the  
10 following:

11 (1) Sells, offers for sale, or offers for promotional purposes, a  
12 plastic product that is used.

13 (2) Takes title to a plastic product, produced either domestically  
14 or in a foreign country, that is purchased for resale or promotional  
15 purposes.

16 ~~(h)~~

17 (j) “Vincotte certification” means a certification of a European  
18 norm (EN) standard adopted by the Belgian-accredited inspection  
19 and certification organization Vincotte.

20 SEC. 2. Section 42356.1 of the Public Resources Code is  
21 amended to read:

22 42356.1. (a) If an ASTM standard specification specified in  
23 paragraph (1) of subdivision ~~(b)~~ (c) of Section 42356 is  
24 subsequently revised, the department shall review the new ASTM  
25 standard specification as follows:

26 (1) If the department determines that the new standard, when  
27 compared to the ASTM standard specification prior to its revision,  
28 is more stringent and more protective of public health, public  
29 safety, and the environment, and is reflective of and consistent  
30 with state policies and programs, the department may adopt the  
31 new standard.

32 (2) If the department determines that the new standard, when  
33 compared to the ASTM standard specification prior to its revision,  
34 is not as stringent and does not protect public health, public safety,  
35 and the environment, and is not reflective of and consistent with  
36 state policies and programs, the department shall not adopt the  
37 new standard.

38 (b) If the ASTM, or any other entity, develops a new standard  
39 specification or other applicable standard for any of the terms  
40 prohibited under subdivision (a) of Section 42357, the department

1 may review the new standard and, if the department determines  
2 that the new standard for the prohibited term, when compared to  
3 the current ASTM standard in effect, is more stringent and more  
4 protective of public health, public safety, and the environment,  
5 and is reflective of and consistent with state policies and programs,  
6 the department may make a recommendation to the Legislature.

7 (c) Compliance with a standard adopted pursuant to paragraph  
8 (1) of subdivision (a) shall be deemed to be in compliance with  
9 this chapter.

10 SEC. 3. Section 42356.2 of the Public Resources Code is  
11 amended to read:

12 42356.2. The department may adopt an existing standard  
13 different from an ASTM standard specification, as described in  
14 paragraph (1) of subdivision ~~(b)~~ (c) of Section 42356, if all the  
15 following conditions are met:

16 (a) The existing standard is adopted or developed by a  
17 standard-setting organization recognized by the department,  
18 including, but not limited to, the ASTM or another similar  
19 organization.

20 (b) The existing standard adds qualifications to an ASTM  
21 standard specification, as described in paragraph (1) of subdivision  
22 ~~(b)~~ (c) of Section 42356, including, but not limited to, “home  
23 compostable.”

24 (c) The department determines that the existing standard is more  
25 stringent than the ASTM standard specification in paragraph (1)  
26 of subdivision ~~(b)~~ (c) of Section 42356 which that existing standard  
27 qualifies.

28 SEC. 4. Section 42357 of the Public Resources Code is  
29 amended to read:

30 42357. (a) (1) Except as provided in paragraph (3) *or*  
31 *subdivision (e)*, a person shall not sell a plastic product in this state  
32 that is labeled with the term “compostable,” “home compostable,”  
33 or “marine degradable” unless, at the time of sale, the plastic  
34 product meets the applicable ASTM standard specification, as  
35 specified in paragraph (1) of subdivision ~~(b)~~ (c) of Section 42356  
36 or the Vincotte OK Compost HOME certification, as provided in  
37 paragraph (4).

38 (2) Compliance with only a section or a portion of a section of  
39 an applicable ASTM standard specification does not constitute  
40 compliance with paragraph (1).

(3) Notwithstanding paragraph (1), a person may sell a plastic product in this state that is labeled with a qualified claim for a term specified in paragraph (1), if the plastic product meets the relevant standard adopted by the department pursuant to Section 42356.2.

(4) (A) A plastic product shall not be labeled with the term “home compostable” unless the manufacturer of that plastic product holds a Vincotte OK Compost HOME certificate of conformity with regard to that product, except as provided in subparagraph (B) or (C).

(B) Notwithstanding paragraph (1), if the ASTM adopts a standard specification for the term “home compostable” on or before January 1, 2016, and the department determines that the ASTM standard specification is at least equal to, or more stringent than, the OK Compost HOME certification, a plastic product labeled with the term “home compostable” shall meet that ASTM standard specification. The department may also take the actions specified in Section 42356.1 with regard to an ASTM standard for home compostability.

(C) If the department adopts a standard pursuant to Section 42356.2, a plastic product labeled with the term “home compostable” shall meet that standard and not the standard specified in subparagraph (A) or (B).

(b) Except as provided in subdivision (a) *or* (e), a person shall not sell a plastic product in this state that is labeled with the term “biodegradable,” “degradable,” or “decomposable,” or any form of those terms, or in any way imply that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment.

(c) A manufacturer or supplier, upon the request of a member of the public, shall submit to that member, within 90 days of the request, information and documentation demonstrating compliance with this chapter, in a format that is easy to understand and scientifically accurate.

(d) A product that is in compliance with this chapter shall not, solely as a result of that compliance, be deemed to be in compliance with any other applicable marketing requirement or guideline established under state law or by the Federal Trade Commission.

(e) *A person may sell agricultural mulch film in this state that is labeled as biodegradable, or labeled as otherwise specified in*

subdivision (a) or (b), if the product biodegrades in soil after being used, and satisfies both of the following conditions:

(1) The product meets the ASTM Standard Specification for Compostable Plastics D6400.

(2) The product is one of the following:

(A) OK soil biodegradable soil.

(B) A product that achieves at least 90 percent biodegradation, in either soil absolute or relative to microcrystalline cellulose, in soil in less than two years, when tested according to the ISO (International Organization for Standardization) Standard 17556 or the ASTM D5988 - 12 Standard Test Method for Determining Aerobic Biodegradation of Plastic Materials in Soil.

SEC. 5. Section 42357.5 of the Public Resources Code is amended to read:

42357.5. (a) A manufacturer of a compostable plastic bag meeting an ASTM standard specification specified in paragraph (1) of subdivision ~~(b)~~ (c) of Section 42356 or Section 42356.1 shall ensure that the compostable plastic bag is readily and easily identifiable from other plastic bags in a manner that is consistent with the Federal Trade Commission Guides for the Use of Environmental Marketing Claims (Part 260 (commencing with Section 260.1) of Subchapter B of Chapter I of Title 16 of the Code of Federal Regulations).

(b) For purposes of this section, “readily and easily identifiable” means labeling that meets both of the following requirements:

(1) Labeled with a certification logo indicating the bag meets the ASTM D6400 standard specification if the bag has been certified as meeting that standard by a recognized third-party independent verification.

(2) Labeled in accordance with one of the following:

(A) The bag is made of a uniform color of green and labeled with the word “compostable” on one side of the bag, and the label shall be at least one inch in height.

(B) Labeled with the word “compostable” on both sides of the bag and the label shall be one of the following:

(i) Green color lettering at least one inch in height.

(ii) Within a contrasting green color band of at least one inch in height on both sides of the bag with color contrasting lettering of at least one-half inch in height.

1 (c) Notwithstanding paragraph (2) of subdivision (b), if the bag  
2 is smaller than 14 inches by 14 inches, the lettering and stripe shall  
3 be in proportion to the size of the bag.

4 (d) A compostable plastic bag sold or distributed in the state  
5 shall not display a chasing arrow resin identification code or  
6 recycling type of symbol in any form.

7 (e) A manufacturer is required to comply with this section only  
8 to the extent that the labeling requirements of subdivisions (b),  
9 (c), and (d) do not conflict with the Federal Trade Commission  
10 Guides for the Use of Environmental Marketing Claims (Part 260  
11 (commencing with Section 260.1) of Subchapter B of Chapter I  
12 of Title 16 of the Code of Federal Regulations).